

ARIZONA STATE VETERINARY MEDICAL EXAMINING BOARD
9535 E. DOUBLETREE RANCH ROAD, SUITE 100, SCOTTSDALE, AZ 85258
PHONE (602) 364-1PET (1738) FAX (602) 364-1939
VETBOARD.AZ.GOV

COMPLAINT INVESTIGATION FORM

If there is an issue with more than one veterinarian please file a separate Complaint Investigation Form for each veterinarian

PLEASE PRINT OR TYPE

FOR OFFICE USE ONLY

Date Received: July 5, 2017 Case Number: 18-01

A. THIS COMPLAINT IS FILED AGAINST THE FOLLOWING:

Name of Veterinarian/CVT: Billy Hendrix, DVM

Premise Name: Altura Vista

Premise Address: 4706 N 7th Ave

City: Phoenix State: AZ Zip Code: 85013

Telephone: 602-277-1464

B. INFORMATION REGARDING THE INDIVIDUAL FILING COMPLAINT*:

Name: Maria Gervigni

Address: _____

City: _____ State: _____ Zip Code: _____

Home Telephone: _____ Cell Telephone: _____

***STATE LAW REQUIRES WE HAVE TO DISCLOSE YOUR NAME UNLESS WE CAN SHOW THAT DISCLOSURE WILL
RESULT IN SUBSTANTIAL HARM TO YOU, SOMEONE ELSE OR THE PUBLIC PER A.R.S. § 41-1010. IF YOU HAVE
REASON TO BELIEVE THAT SUBSTANTIAL HARM WILL RESULT IN DISCLOSURE OF YOUR NAME PLEASE PROVIDE
COPIES OF RESTRAINING ORDERS OR OTHER DOCUMENTATION.**

III 05 2017

BV:

C. PATIENT INFORMATION (1):

Name: Matty Cervigni
Breed/Species: Domestic Long Hair
Age: decreased Sex: F Color: Calico

PATIENT INFORMATION (2):

Name: _____
Breed/Species: _____
Age: _____ Sex: _____ Color: _____

D. VETERINARIANS WHO HAVE PROVIDED CARE TO THIS PET FOR THIS ISSUE:

Please provide the name, address and phone number for each veterinarian.

Dr. Kielyn Scott, DVM

Dr. Hershey, DVM

E. WITNESS INFORMATION:

Please provide the name, address and phone number of each witness that has direct knowledge regarding this case.

Julia Pipras

Lina Hugan

Judith Solomon

Attestation of Person Requesting Investigation

By signing this form, I declare that the information contained herein is true and accurate to the best of my knowledge. Further, I authorize the release of any and all medical records or information necessary to complete the investigation of this case.

Signature: M. Cervigni

Date: 6/29/2017

RECEIVED
JUL 05 2017
BY:

F. Allegations and/ or Concerns: Regarding Dr. Billy Hendrix, DVM

1. Falsifying medical records
2. Breach of contract
2. Negligence
3. Not qualified to perform surgical procedure
4. Broke the first medical oath to do no harm as he did not refer to a skilled surgeon to perform the correct surgery for the most likely diagnosis.

2/13- Matty Cervigni, feline PTC for a 3cm slightly ulcerated mass located mid right mammary chain and a smaller mammary mass immediately lateral to it. The most likely diagnosis was given at that time of mammary adenocarcinoma with a very poor prognosis.

I requested a radical mastectomy of the right chain as I have researched that this was the only chance Matty would have at prolonging her life. The articles that supported this were from OSU.edu and many other articles especially from Europe. Dr. Hendrix said that radical mastectomies are not done. I believed him because I thought that all the articles I read were from studies and different countries rather than as normal clinical procedures. Bloodwork was done, and an US was scheduled because Dr. Hendrix recommended a lumpectomy if she was clear of mets via US and had unremarkable bloodwork.

2/14- Matty's blood work was revealed as unremarkable except low lymphocytes.

2/15-US revealed no mets or additional masses.

I was told that this was a very aggressive cancer which made me frightened and therefore, when Dr. Hendrix was ready to perform the lumpectomy on 2/19, I agreed as I thought it would give me more time to help Matty.

2/19- Matty PTC to remove the previous noted masses on the right mammary chain. Dr. Hendrix said he would do a wide excisional bx for histology and removal of lumps on right chain. On pre-op PE, I tried to show Dr. Hendrix a new mass I had found medial and cranial to the previous noted masses. He started to palpate, but then saw a large ulcerated mass cranial to the previous noted masses on the right chain. We then discussed that he would remove all the masses which were all on the right mammary chain, by wide excision and then biopsy the tissue. I assumed that included that mass I found. I assumed if anything new or different came up during prep for surgery, which included shaving and palpating, I would be notified and discuss whether to resume the surgery. I was never notified of any new discoveries. Dr. Hendrix claims that unilateral right mastectomy was performed; however, the new mass that I found on the right chain medial and cranial to the previous noted masses was NOT removed.

Dr. Hendrix alleges that he found a mass on the left chain which he FORGOT to document. He also allegedly claims that he discussed that he could not perform "opposite mastectomies". These previous statements are false because there was never a mass on the left chain and he never spoke to me about a mass on the left chain.

I would have never gone through with a surgery if I knew Matty would need a second surgery. I would have never put her through a second surgery and I never did. I also have 2 veterinarians (Dr. Scott and Dr. Hershey), that documented masses on the right and never saw a mass on the left after the surgery.

2/27- I went to talk to Dr. Hendrix to remedy the situation as the mass he did not remove on the right chain was growing larger. Matty was not there and Dr. Hendrix insisted that the mass was on the left chain, therefore he could not remove it. He started to act very unprofessional. At one point he said, "If she, [Matty] was fat I could have done a radical mastectomy [on the right chain], but she is too small, and there was not enough tissue to close the incision."

Once I got home, I verified that the mass was on the right and then made an appointment for a second opinion with Dr. Scott, DVM to determine whether the mass was on the left or right.

3/7- I contacted the manager to try to remedy the situation. She was nice, but as she was not medical personnel, she did not completely understand the situation.

1. Falsifying medical records- Dr. Hendrix falsified records claiming there was a mass on the left, when there were only masses on the right chain.
2. Breach of contract- Dr. Hendrix said he would remove all masses on the right, and he did not remove one mass on the right.
3. Negligence- Dr. Hendrix obviously did not palpate Matty before the surgery to find more masses and/or stop the surgery and refer to a skilled surgeon that could perform a radical mastectomy as he admitted he could not perform a radical mastectomy surgery. I understand that if there were 1 lump, a radical mastectomy would not be indicated, and most likely aspiration would be indicated for diagnosis before determining the type of surgery.
3. Not qualified to perform surgical procedure- He admitted that he could not close the incision because Matty was too small, and he could do it if she was "fat".
4. Broke the first medical oath to do no harm as he did not refer to a skilled surgeon to perform the correct surgery for the most likely diagnosis. - Once there were 4 masses noted, and 2 were ulcerated (or even only 3 masses as he never palpated the mass I found), then the diagnosis of mammary cancer is extremely likely. He is not a skilled surgeon or oncologist and should have referred me to someone who could remove all the masses on the right chain.

To: Arizona State Veterinary Medical Examining Board

From: Dr. Billy Hendrix

Re: Case #18-01 (Matty Cervigni)

To Who It May Concern:

On February 13, 2017, Matty, a 10-year-old domestic long hair female cat, presented with a concern about an abdominal mass. The Owner indicated that Matty would scream every time she touched her in the area of the mass. On initial examination, a presumptive diagnosis of a mammary mass was made. I discussed with the owner that statistically the mass would most likely be neoplastic and had the potential for a multiple mammae manifestation development and distance metastasis. I recommended a pre-operative workup including bloodwork, thoracic radiographs and abdominal ultrasound.

The Owner agreed to the pre-operative workup, which revealed no evidence of metastasis. The Owner then scheduled a surgery for a lumpectomy and histopathologic analysis of the mass. On the day of surgery, February 19, 2017, I performed a pre-operative examination and consult with the Owner. The previously detected mammary mass was now found to be larger and ulcerated. A newly manifested adjacent mammary mass on the opposite mammary chain was also detected at this time.

I discussed with the owner again that the goal of the procedure on that day was to remove the initially detected/most prominent mammary mass and have histopathologic analysis done to determine the definitive etiology and develop a further treatment plan based on that laboratory result. I also told the Owner at that time that I did not feel comfortable performing a bilateral radical mastectomy due to the risk of dehiscence. The Owner was made aware that, based on the histopathologic diagnosis of the mammary mass, further surgery would likely be recommended, along with potential recommendations for chemotherapy and/or radiation treatment. I completed the unilateral mastectomy without complication and submitted the mammary mass for histopathologic analysis. This analysis came back as a neoplastic etiology, as I had suspected initially.

On February 21, 2017, I discussed these findings with the Owner and recommended a consultation with an oncologist, as noted in the record. On February 27, 2017, the Owner came in for a post-op consultation and we discussed a palpable mammary nodule on the left mammary chain. I again told her that if opposite side mastectomies were to be done, they would be done as separate surgical procedures and reminded her of our previous discussion where I advised against a bilateral mastectomy.

On March 7, 2017, the Owner contacted the animal hospital and said that I had been negligent in failing to remove all the pet's mammary masses and demanded her money back. The matter was then turned over to the practice insurance company who denied the claim and advised the owner that I had not done anything that fell below the standard of care. This board complaint was then filed after the insurance company denied the Owner's claim.

received
R 12/17

Again, with respect to the allegation that I neglected to remove all of the pet's mammary masses, it was never my intention to do a bilateral mastectomy and the owner was advised of this. Apparently, she forgot our previous pre-operative conversation. During that conversation, I specifically told her that I would not be performing a bilateral mastectomy and that further surgical intervention may be recommended based on histopathologic analysis. I still believe that was the appropriate course of action and that I fully complied with the applicable standard of care with respect to my veterinary services in this case. Thank you.

Billy Hendrix, DVM



DOUGLAS A. DUCEY
- GOVERNOR -

VICTORIA WHITMORE
- EXECUTIVE DIRECTOR -

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INVESTIGATIVE COMMITTEE REPORT

TO: Arizona State Veterinary Medical Examining Board

FROM: PM Investigative Committee: Robert Kritsberg, D.V.M. - Chair
Donald Noah, D.V.M. - **Absent**
Adam Almaraz
Amrit Rai, D.V.M.
Tamara Murphy

STAFF PRESENT: Tracy Riendeau, C.V.T, Investigations
Sunita Krishna, Assistant Attorney General

RE: Case: 18-01

Complainant(s): Maria Cervigni

Respondent(s): Billy Hendrix, DVM (License: 6381)

SUMMARY:

Complaint Received at Board Office: 7/5/17

Committee Discussion: 9/12/17

Board IIR: 10/18/17

APPLICABLE STATUTES AND RULES:

Laws as Amended July 2014

(Salmon); Rules as Revised September 2013 (Yellow)

On February 19, 2017, "Matty," a 10-year-old female domestic long hair cat was presented to Respondent for a mammary mass removal and histopathology.

Complainant stated that she identified another mass on the same chain and was under the impression it would also be removed. Respondent stated that he identified a new mass on the opposite mammary chain but advised Complainant that it would not be removed at that time. He only wanted to remove the initially detected mass for histopath to determine the etiology and develop a treatment plan based on laboratory results. Complainant denies a mass on the opposite chain existed.

Complainant contends Respondent was negligent in the care of the cat.

Complainant was noticed and appeared.

Respondent was noticed and appeared telephonically. Counsel, David Stoll appeared.

The Committee reviewed medical records, testimony, and other documentation as described below:

- Complainant(s) narrative: Maria Cervigni
- Respondent(s) narrative/medical record: Billy Hendrix, DVM
- Consulting veterinarian(s) narrative/medical record: Kielyn Scott, DVM –Veterinary Holistic Health

PROPOSED 'FINDINGS of FACT':

1. On February 13, 2017, the cat was presented to Respondent to have an abdominal mass evaluated. Complainant indicated the cat would vocalize when it was touched. Upon exam, the cat had a weight = 10.10 pounds, a temperature = 101.4 degrees, a heart rate = 165bpm and a respiration rate = 30rpm. Respondent noted two lumps in the cat's mammary area – 3cm firm mildly ulcerated mammary mass about right mid-chain and a small nodule immediately cranial to larger mass. The cat also had dental disease 3/4.
2. Respondent gave Complainant a very guarded prognosis due to potential neoplastic etiology. According to Complainant, she requested a radical mastectomy based on articles she read and was told by Respondent that radical mastectomies are not performed. Pre-operative metastatic work-up was recommended which included blood work, thoracic radiographs and ultrasound. Complainant approved.
3. Blood work, radiographs and ultrasound did not reveal evidence of metastasis and surgery for a lumpectomy and histopathology was scheduled.
4. On February 16, 2017, the cat was presented to holistic veterinarian, Dr. Scott, at Veterinary Holistic Health. Dr. Scott stated that they spoke about options to ensure Complainant understood everything. She explained that if it was cancer, the cat would need to have the entire mammary chain surgically removed, not just a biopsy, and chemotherapy may be an option. Complainant could see an oncologist or surgeon depending on the results and depending on what Respondent advised when the histopath results returned. Dr. Scott examined the cat and noted right rostral mammary chain – first in the chain, 2 masses palpated.
5. On February 19, 2017, the cat was presented to Respondent for the lumpectomy and histopathology. According to Complainant, she attempted to show Respondent a new mass she had found on the right chain. She stated that Respondent began to palpate the new mass she located but then saw a large ulcerated mass cranial to the previously noted masses on the right chain. Then Respondent advised that he would remove all the masses on the right mammary chain by wide incision and biopsy the tissue. Complainant assumed that included the newly identified mass she showed Respondent.
6. According to Respondent during the pre-operative exam and consult with Complainant, the previously detected mass was now larger and ulcerated. A newly manifested adjacent mammary mass on the opposite mammary chain (left side) was also detected at this time (this was not documented in the medical record which Respondent states in the 2/27/17 entry). He discussed with Complainant that the goal of the procedure was to remove the initially detected, most prominent mass and have histopathologic analysis done to determine the definitive etiology and develop a further treatment plan based on laboratory results. Respondent

explained that he did not feel comfortable performing a bilateral radical mastectomy due to risk of dehiscence. Complainant was made aware that a further surgery would be likely recommended along with potential recommendations for chemotherapy and/or radiation treatment.

7. An IV catheter was placed and Normosol-R fluids were started. The cat was pre-medicated with buprenorphine and induced with propofol. The affected mammary mass was prepped and a wide excision was made. Closed SQ with 2-0 monocryl and closed skin with staples. Mass submitted for histopath. The cat was discharged later that day with buprenorphine.

8. On February 21, 2017, Complainant was advised of the histopath results = adenocarcinoma. Respondent relayed survival times vary from 6 months to 4 years. Referral to an oncologist was recommended.

9. Later that day, the cat was presented to Respondent due to constipation and recheck. Upon exam, the cat had a weight = 9.82 pounds, a temperature = 102.6 degrees, a heart rate = 210bpm and a respiration rate = 60rpm. Respondent noted that the incision site had mild bruising but looked good. The cat was not drinking but eating a little bit of wet food. The cat was administered the following:

- a. SQ fluids, 150mLs of Normosol-R;
- b. Cerenia 10mg/mL, 0.45cc (route unknown);
- c. Buprenorphine 0.3mg/mL, 0.3cc orally (and continue every 8 hours at home); and
- d. Recommended offering palatable food – a/d sent home.

10. On February 23, 2017, the cat was presented to Respondent for a recheck. Complainant reported that the cat had no passed stool and may be struggling to urinate. The cat was examined and Respondent noted firm stool in abdomen and the incision was healing well. They discussed the poor prognosis and oncology referral; Complainant would like a more holistic approach therefore Dr. Hershey was recommended. They also discussed hospice care and euthanasia when quality of life was poor. The following was administered to the cat:

- a. Normosol-R SQ fluids, 150mLs;
- b. Warm water and lube enema 60mLs;
- c. Convenia 80mg/mL, 0.44cc SQ;
- d. Lactulose 1 – 2cc every 8 hours to soften stool; and
- e. Recommended adding pumpkin to canned food and a probiotic.

11. On February 27, 2017, Complainant visited Respondent to discuss the mammary nodules. Respondent indicated that there was an omission in the medical record on the pre-op exam. They discussed the palpable mammary nodule on the left chain and his recommendation if both chains were affected that opposite mastectomies are performed on separate procedures. They further discussed oncology referral.

12. On March 7, 2017, Complainant called and spoke to Respondent's manager. She relayed that she felt a lump on the opposite side at the time of surgery and really wanted all the mammary glands removed because she had concerns for her pet. However, Respondent advised that could not happen as there was not enough tissue to close and there was one side affected at that time. Complainant moved forward with surgery and now the cat has a more

noticeable lump on the other side. She said that she was not told that it would two separate procedures and if she would have known, she would have waited to get a second opinion.

13. On March 10, 2017, Dr. Scott spoke with Complainant who was upset because there were more mammary masses palpable; Respondent did not remove all the masses. Dr. Scott relayed that she was under the impression that Respondent was getting a diagnostic biopsy and would debulk masses, but that a surgeon would need to remove the entire mammary chain. Complainant was resistant to having another surgery as the cat's recovery was not going well. Holistic treatment was provided until Complainant could see Dr. Hershey, the oncologist, in late March.

14. Dr. Scott felt masses in the second mammary area of the right chain – roughly $\frac{1}{4}$ " by $\frac{1}{2}$ " laterally. Medially-larger soft tissue swelling containing multiple smaller, irregular masses – whole area roughly 1" by $\frac{1}{2}$ ".

15. Dr. Scott's notes reflect that Dr. Hershey's staff recommended Complainant not pursue surgery but has appointment March 30th.

16. May 11, 2017, Complainant reported to Dr. Scott that the cat had passed away.

COMMITTEE DISCUSSION:

The Committee discussed that this case was confusing and based on the description of the cat's incision given by Complainant, the cat did not undergo a radical mastectomy as Respondent has now stated. Respondent stated he performed a radical unilateral mastectomy however that is not documented in the medical record. It appears from the medical record a lumpectomy was performed which may have included 2 – 3 glands in the cranial area but it does not appear that it was a complete radical mastectomy. As a result of the lack of description in the medical record it is not clear what transpired.

A lumpectomy can be performed to determine the etiology of the mass. The cat had an aggressive cancer which can metastasize rapidly.

Complainant was concerned that Respondent was not truthful by stating there was a mass on the left side however the Committee cannot determine that. It is possible that the mass was moveable and the cat was lying at a weird angle, it could be hard to determine which side the new mass was actually on.

The medical records do not support that a radical mastectomy was performed. The Committee did not feel this led to injurious results to the cat but made the case confusing to follow with what exactly transpired.

COMMITTEE'S PROPOSED CONCLUSIONS of LAW:

The Committee concluded that possible violations of the Veterinary Practice Act occurred.

COMMITTEE'S RECOMMENDED DISPOSITION:

Motion: It was moved and seconded the Board find:

ARS 32-2232 (12) as it relates to AAC R3-11-501 (1) failure to provide professionally acceptable procedures with respect to no substantiation that a radical mastectomy was performed.

Vote: The motion was approved with a vote of 4 to 0.

The information contained in this report was obtained from the case file, which includes the complaint, the respondent's response, any consulting veterinarian or witness input, and any other sources used to gather information for the investigation.



Tracy A. Riendeau, CVT
Investigative Division



DOUGLAS. A DUCEY
GOVERNOR

VICTORIA WHITMORE
EXECUTIVE DIRECTOR

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IN ACCORDANCE WITH § A.R.S. 32-2237(D): "IF THE BOARD REJECTS ANY RECOMMENDATION CONTAINED IN A REPORT OF THE INVESTIGATIVE COMMITTEE, IT SHALL DOCUMENT THE REASONS FOR ITS DECISION IN WRITING."

At the November 15, 2017 meeting of the Arizona State Veterinary Medical Examining Board, the Board conducted an Informal Interview in Case 18-01, In Re: Billy Hendrix, DVM.

The Board considered the Investigative Committee Findings of Fact, Conclusions of Law, and Recommended Disposition:

ARS 32-2232 (12) as it relates to AAC R3-11-501 (1) failure to provide professionally acceptable procedures with respect to no substantiation that a radical mastectomy was performed.

Following the informal interview with Respondent, the Board did not feel this incident rose to the level of a violation and voted to dismiss this issue with no violation.

Respectfully submitted this 13th day of December, 2017.

Arizona State Veterinary Medical Examining Board


Jim Loughhead, Chair